

UNITED STATES DISTRICT COURT EASTERN  
DISTRICT OF NEW YORK

Case No. 18-cv-6613

SHAKEYA RHODEN, and other similarly situated  
current and former nurses and technicians,

Plaintiff,

**DECLARATION OF SHAKEYA  
RHODEN**

- Against -

NIRANJAN MITTAL, NIRANJAN K. MITTAL,  
PHYSICIAN, PLLC,

Defendant.

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Shakeya Rhoden, hereby declares pursuant to 28 USC Section 1746 under penalties of perjury as follows:

1. I am the Plaintiff in this action and, as such, I am fully familiar with the facts and circumstances of the within matter.
2. I submit this declaration in support of my application that the Court enter a default judgment against the defaulting defendants NIRANJAN MITTAL, NIRANJAN K. MITTAL, PHYSICIAN, PLLC. and award me the full amount of my unpaid overtime compensation, violation of wage notice statutes and the violation of NYC ADC §8-107(a) and NY EX. Law § 296.
3. I reside in Queens County, New York.
4. I filed a Complaint in this Court against my former employers because they failed to pay me overtime compensation in accordance with the Fair Labor Standards Act ("FLSA") and New York Labor Law ("NYLL").
5. I am a female who at all times was a nurse's aide.
6. In March 2016, I began working for Defendants.
7. The regular hours I worked for Defendants was from 7:00AM until 8:00 PM, Monday

through Saturday. I received a one-hour break.

8. I always worked 78 hours per week. Of the 13 hours per day I worked, I was paid for 12 I never received a lunch.
9. The rate of pay I received varied from \$15.00 per hour in the 2016. In 2017, I was supposed to be paid \$18.00 per hour. Defendant never adjusted my per hour rate of pay during this year.
10. I was never paid time and one half for all hours I worked in excess of forty (40) per week.
11. I never received a wage notification form as New York State Law requires.
12. In 2017, my pay was unlawfully deducted in the sum of \$3.00 per hour for all hours up to forty (40) hours per week. For all hours in excess of forty (40) hours per week, my pay was deducted \$4.50 per hour.
13. I never received accurate pay checks since I was not paid time and one-half for work in excess of 40-hours per week.
14. The job I held included assisting nurses with vitals, arrange transportation for patients, assist with intake and outtake.
15. In or about June 2017, I informed Defendants, including Dr. Mittal that I was pregnant.
16. I was given a fetal heart monitor, thus allowing me to perform my position.
17. I was able to perform my position with the use of a fetal monitor when working with CT-scans and X-rays.
18. On July 12, 2017, Dr. Mittal terminated me because I was pregnant.
19. Dr. Mittal expressly informed me that he was terminating her because I was pregnant.
20. Dr. Mittal expressly told me I could reapply for my position once I was no longer pregnant.

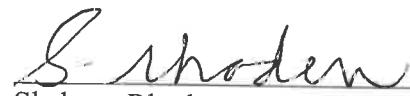
21. The motivating factor for my termination was that I was a pregnant female.
22. The reason I was terminated from my position was because I was a pregnant female.
23. As a consequence of the above, I have lost income and sustained psychological injuries, directly related to the aforementioned.
24. I returned to work at another position on May 13, 2018. As a consequence, I lost income in the sum of \$69,840.00. This would be my weekly income with proper overtime time compensation during the length of time I was unemployed.<sup>1</sup>
25. I never received a wage-theft written notification or correct payment stubs, outlining my pay and any deductions that would be applicable.
26. I am entitled to unpaid overtime for 2016 (see spreadsheet) in the sum \$16,126.00.  
With penalties, that sum is \$32,250.00
27. I am entitled to unpaid overtime for 2017 (see spreadsheet) in the sum \$16,443.00  
With penalties, that sum is \$32,886.00
28. I am also entitled to the sum of \$10,000.00 for the failure to receive a wage theft statement and accurate paystubs.
29. In November, 2018, I retained The Law Office of Jason Tenenbaum, P.C., to represent me in this proceeding. Records of my attorneys' fees and costs incurred in this matter are attached to Mr. Tenenbaum's declaration.
30. As such, I seek the sum of \$144,976.00 in economic damages plus costs. I am also entitled to pre-judgment interest on the sum of \$65,136.00 from the middle point of my unpaid overtime claim, or November 13, 2016. I am also entitled to 9% judgment rate interest on the sum of \$79,840.00 from December 11, 2018 onward.

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<sup>1</sup> This sum is arrived through taking the product of \$1,746.00 times 40 weeks.

31. I also seek a damages hearing on my emotional distress claims under NYC ADC §8-107(a) and punitive damages.

Dated: Queens, New York  
January 28, 2019

  
\_\_\_\_\_  
Shakeya Rhoden



| NAME        | Shakeya Rhoden    | EMPLOYER          | Niranjan Mittal, PLLC   |
|-------------|-------------------|-------------------|-------------------------|
| Week Number | Week Start Date   | Week Ending Date  | Paid per Week<br>\$1080 |
| Week 01     | January 2, 2017   | January 8, 2017   | \$15.00                 |
| Week 02     | January 9, 2017   | January 15, 2017  | \$15.00                 |
| Week 03     | January 16, 2017  | January 22, 2017  | \$15.00                 |
| Week 04     | January 23, 2017  | January 29, 2017  | \$15.00                 |
| Week 05     | January 30, 2017  | February 5, 2017  | \$15.00                 |
| Week 06     | February 6, 2017  | February 12, 2017 | \$15.00                 |
| Week 07     | February 13, 2017 | February 19, 2017 | \$15.00                 |
| Week 08     | February 20, 2017 | February 26, 2017 | \$15.00                 |
| Week 09     | February 27, 2017 | March 5, 2017     | \$15.00                 |
| Week 10     | March 6, 2017     | March 12, 2017    | \$15.00                 |
| Week 11     | March 13, 2017    | March 19, 2017    | \$15.00                 |
| Week 12     | March 20, 2017    | March 26, 2017    | \$15.00                 |
| Week 13     | March 27, 2017    | April 2, 2017     | \$15.00                 |
| Week 14     | April 3, 2017     | April 9, 2017     | \$15.00                 |
| Week 15     | April 10, 2017    | April 16, 2017    | \$15.00                 |
| Week 16     | April 17, 2017    | April 23, 2017    | \$15.00                 |
| Week 17     | April 24, 2017    | April 30, 2017    | \$15.00                 |
| Week 18     | May 1, 2017       | May 7, 2017       | \$15.00                 |
| Week 19     | May 8, 2017       | May 14, 2017      | \$15.00                 |
| Week 20     | May 15, 2017      | May 21, 2017      | \$15.00                 |
| Week 21     | May 22, 2017      | May 28, 2017      | \$15.00                 |
| Week 22     | May 29, 2017      | June 4, 2017      | \$15.00                 |
| Week 23     | June 5, 2017      | June 11, 2017     | \$15.00                 |
| Week 24     | June 12, 2017     | June 18, 2017     | \$15.00                 |
| Week 25     | June 19, 2017     | June 25, 2017     | \$15.00                 |
| Week 26     | June 26, 2017     | July 2, 2017      | \$15.00                 |
| Week 27     | July 3, 2017      | July 9, 2017      | \$15.00                 |

TOTAL, PENALIZED

WAGES

TOTAL,

WAGES

| NAME        | Shakeya Rhoden     | EMPLOYER           | Niranjan Mittal      | NAME              | Niranjan Mittal PLLC |
|-------------|--------------------|--------------------|----------------------|-------------------|----------------------|
| Week Number | Week Start Date    | Week Ending Date   | Paid per Week \$1080 | Weekly Hours Paid | OT per Pay           |
| Week 10     | March 7, 2016      | March 13, 2016     | \$15.00              | \$22.50           |                      |
| Week 11     | March 14, 2016     | March 20, 2016     | \$15.00              | \$22.50           | 72                   |
| Week 12     | March 21, 2016     | March 27, 2016     | \$15.00              | \$22.50           | 72                   |
| Week 13     | March 28, 2016     | April 3, 2016      | \$15.00              | \$22.50           | 72                   |
| Week 14     | April 4, 2016      | April 10, 2016     | \$15.00              | \$22.50           | 72                   |
| Week 15     | April 11, 2016     | April 17, 2016     | \$15.00              | \$22.50           | 72                   |
| Week 16     | April 18, 2016     | April 24, 2016     | \$15.00              | \$22.50           | 72                   |
| Week 17     | April 25, 2016     | May 1, 2016        | \$15.00              | \$22.50           | 72                   |
| Week 18     | May 2, 2016        | May 8, 2016        | \$15.00              | \$22.50           | 72                   |
| Week 19     | May 9, 2016        | May 15, 2016       | \$15.00              | \$22.50           | 72                   |
| Week 20     | May 16, 2016       | May 22, 2016       | \$15.00              | \$22.50           | 72                   |
| Week 21     | May 23, 2016       | May 29, 2016       | \$15.00              | \$22.50           | 72                   |
| Week 22     | May 30, 2016       | June 5, 2016       | \$15.00              | \$22.50           | 72                   |
| Week 23     | June 6, 2016       | June 12, 2016      | \$15.00              | \$22.50           | 72                   |
| Week 24     | June 13, 2016      | June 19, 2016      | \$15.00              | \$22.50           | 72                   |
| Week 25     | June 20, 2016      | June 26, 2016      | \$15.00              | \$22.50           | 72                   |
| Week 26     | July 3, 2016       | July 3, 2016       | \$15.00              | \$22.50           | 72                   |
| Week 27     | July 4, 2016       | July 10, 2016      | \$15.00              | \$22.50           | 72                   |
| Week 28     | July 11, 2016      | July 17, 2016      | \$15.00              | \$22.50           | 72                   |
| Week 29     | July 18, 2016      | July 24, 2016      | \$15.00              | \$22.50           | 72                   |
| Week 30     | July 25, 2016      | July 31, 2016      | \$15.00              | \$22.50           | 72                   |
| Week 31     | August 1, 2016     | August 7, 2016     | \$15.00              | \$22.50           | 72                   |
| Week 32     | August 8, 2016     | August 14, 2016    | \$15.00              | \$22.50           | 72                   |
| Week 33     | August 15, 2016    | August 21, 2016    | \$15.00              | \$22.50           | 72                   |
| Week 34     | August 22, 2016    | August 28, 2016    | \$15.00              | \$22.50           | 72                   |
| Week 35     | August 29, 2016    | September 4, 2016  | \$15.00              | \$22.50           | 72                   |
| Week 36     | September 5, 2016  | September 11, 2016 | \$15.00              | \$22.50           | 72                   |
| Week 37     | September 12, 2016 | September 18, 2016 | \$15.00              | \$22.50           | 72                   |
| Week 38     | September 19, 2016 | September 25, 2016 | \$15.00              | \$22.50           | 72                   |
| Week 39     | September 26, 2016 | October 2, 2016    | \$15.00              | \$22.50           | 72                   |
| Week 40     | October 3, 2016    | October 9, 2016    | \$15.00              | \$22.50           | 72                   |
| Week 41     | October 10, 2016   | October 16, 2016   | \$15.00              | \$22.50           | 72                   |
| Week 42     | October 17, 2016   | October 23, 2016   | \$15.00              | \$22.50           | 72                   |
| Week 43     | October 24, 2016   | October 30, 2016   | \$15.00              | \$22.50           | 72                   |
| Week 44     | October 31, 2016   | November 6, 2016   | \$15.00              | \$22.50           | 72                   |
| Week 45     | November 7, 2016   | November 13, 2016  | \$15.00              | \$22.50           | 72                   |
| Week 46     | November 14, 2016  | November 20, 2016  | \$15.00              | \$22.50           | 72                   |
| Week 47     | November 21, 2016  | November 27, 2016  | \$15.00              | \$22.50           | 72                   |
| Week 48     | November 28, 2016  | December 4, 2016   | \$15.00              | \$22.50           | 72                   |
| Week 49     | December 5, 2016   | December 11, 2016  | \$15.00              | \$22.50           | 72                   |
| Week 50     | December 12, 2016  | December 18, 2016  | \$15.00              | \$22.50           | 72                   |
| Week 51     | December 19, 2016  | December 25, 2016  | \$15.00              | \$22.50           | 72                   |
| Week 52     | December 26, 2016  | January 1, 2017    | \$15.00              | \$22.50           | 72                   |

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